

Message

From: Miller, Christina (SUF) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MASSMAIL-01/CN=RECIPIENTS/CN=USERS/CN=CMILLER]
Sent: 12/7/2010 3:02:20 PM
To: Bucci, Jeremy (SUF) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MassMail-01/cn=Recipients/cn=Users/cn=JBucci]; Nassif, Julianne (DPH) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MassMail-01/cn=Recipients/cn=Julianne.Nassif]
CC: Salemi, Charles (DPH) [/O=COMMONWEALTH OF MASSACHUSETTS/OU=MassMail-01/cn=Recipients/cn=Charles.Salemi]
Subject: RE: question on resubmittal

We do not have questions for a non-testing expert. It would be great to have them - particularly where there are restrictions on direct as to what the ADA can ask pursuant to Nardi. Do you have an intern who can work with you and/or me on creating such a document? thanks, Christina

From: Bucci, Jeremy (SUF)
Sent: Monday, December 06, 2010 4:19 PM
To: Miller, Christina (SUF); Nassif, Julianne (DPH)
Cc: Salemi, Charles (DPH)
Subject: RE: question on resubmittal

Given that I am on my way to Northampton to deal with these same issues there I think it makes sense to push through a couple of test cases where we put on a different chemist who has formed an opinion based on the old records. We should let those cases go up on appeal and see if the appeals courts will affirm that type of testimony before we default to retesting. I'm a strong supporter of conservation of the extremely scarce resources of the lab. My first order of business in Western Massachusetts will be ensuring that PC/CI buys are not being submitted to the lab out there....

Christina, do we have template questions on the shared drive so that the district court ADA's have guidance on how to do a direct of a non-testing expert?

Julie, do you have sample questions for non-testing chemists?

Jeremy Bucci
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From: Miller, Christina (SUF)
Sent: Monday, December 06, 2010 1:05 PM
To: Nassif, Julianne (DPH); Bucci, Jeremy (SUF)
Cc: Salemi, Charles (DPH)
Subject: RE: question on resubmittal

That makes sense. Just wanted to think it through. I'll let the District Court ADAs know that resubmitting drugs for retesting should not occur unless the records are insufficient for a current chemist to form an opinion. Superior court may be a different story (and certainly less frequent). So I'll let Jeremy handle that answer (or his predecessor). Thank you so very much for bringing this to my attention.

Christina Miller

Chief, District Courts and Community Prosecutions
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One Bulfinch Place
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(617) 619-4191
Cell: [REDACTED]

From: Nassif, Julianne (DPH)

Sent: Monday, December 06, 2010 11:35 AM

To: Miller, Christina (SUF); Bucci, Jeremy (SUF)

Cc: Salemi, Charles (DPH)

Subject: RE: question on resubmittal

The requests are becoming more frequent, a few per month. My fear is that we will set a precedent that will really hurt us when cases that an analyst who has resigned or retired finally make it to trial – we could potentially have thousands to retest. Testing procedures have not changed all that much in the past 16 years, but based on how the samples were stored/handled after leaving the laboratory and the stability of certain drugs.

I don't think that retesting is the best use of our analytical services. If it became overwhelming we might have to change the testing paradigm to something similar to Virginia where they hold samples and only test when they go to trial.

Again, we are happy to provide a knowledgeable chemist to testify to the data in this pending case. Please feel free to call me to discuss 617.983.6651.

Thanks, Julie

From: Miller, Christina (SUF)

Sent: Monday, November 29, 2010 4:52 PM

To: Nassif, Julianne (DPH); Bucci, Jeremy (SUF)

Cc: Salemi, Charles (DPH)

Subject: RE: question on resubmittal

Dear Julie,

How often does a request to retest occur? If it is frequent, then I agree that it would be a waste of limited resources. Also, is the test the same test then as now? Are there any concerns that the testing procedures have become more accurate in the past 16 years? If the request to retest is frequent and the tests are the same, then I agree that we can use a non-testing chemist to testify. These are my thoughts. Others are certainly welcome.

Thank you,
Christina

Christina Miller

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From: Nassif, Julianne (DPH)

Sent: Monday, November 29, 2010 12:03 PM

To: Bucci, Jeremy (SUF); Miller, Christina (SUF)

Cc: Salemi, Charles (DPH)

Subject: FW: question on resubmittal

Hi,

I hope all is well. Please see the email trail below regarding an old drug case (1995) tested by two chemists who no longer work at the laboratory. One lives in California and I honestly don't know where the other is. We are happy to provide a knowledgeable chemist to testify to the notes at the trial in February. (Alternatively, we may be able to provide the last known addresses for the testing chemists but I don't know how long HR records are maintained).

It is terrible waste of limited analytical resources not to mention a bad precedent to set, to resubmit and reanalyze these drugs. Will you please follow-up with ADA Flynn and advise?

Thanks, Julie Nassif

From: Salemi, Charles (DPH)

Sent: Monday, November 29, 2010 11:31 AM

To: Nassif, Julianne (DPH)

Cc: O'Brien, Elisabeth (DPH)

Subject: FW: question on resubmittal

Julie, do you want to respond to this ADA about an old sample. It was done by Tom Hol. and Sandy. We have the card and Tom's powder sheet. CBS

From: Khan, Annie (DPH)

Sent: Friday, November 26, 2010 10:44 AM

To: Salemi, Charles (DPH); O'Brien, Elisabeth (DPH)

Cc: Flynn, Brenna (SUF)

Subject: FW: question

See below.

Brenna is looking for some advice on an old (1994) case. The Lab # [REDACTED] Tom was the primary and Sandy was the confirmatory.

At your convenience, could you please respond to Brenna? Greatly appreciated.

Thanks.

Annie
Drug Analysis Lab
617-983-6631 (work)
617-983-6625 (fax)

From: Flynn, Brenna (SUF)
Sent: Friday, November 26, 2010 10:25 AM
To: Glazer, Lisa (DPH); Khan, Annie (DPH); Saunders, Della (DPH)
Subject: question

Hi Guys - hope you had a great thanksgiving!

I am emailing because I have a very old case (1994). According to BPD the drugs are still available. They were tested in January of 1995 and I have the cert, but I am guess the chemists are no longer available (Thomas Hollenbeck and Sandra Lipchus) ?? If they are not, is it possible to have them re-tested? Trial is set for 2/10/11. I am emailing you guys because you are the only chemists I am familiar with - thanks in advance for your help figuring this out!

take care,
Brenna

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